

REMARKS**I. DECISION OF THE BOARD OF APPEALS AND INTERFERENCES**

The decision of the Board of Appeals and Interferences affirmed the rejection by the Examiner of claims 1-7, 9 and 15-20, which are pending in the application. In denying Applicant's Request for Reconsideration, the Board stated that Applicant's limitation of "said connection tube drawing contaminants from the cavity through said connection tube" was a functional limitation that would not have rendered the connection tube structurally different from that of Holt. In response, Applicant has filed a Request for Continued Examination and hereby amended his claims to overcome the Examiner's rejection and the Board's decision that there were no structural limitations requiring an absence of structure blocking contaminants from entering the connection tube within the claims.

II. APPLICANT'S AMENDMENT TO THE CLAIMS

Applicant's amendment to the claims, as well as Applicant's new claim 21, now specifically require that the applicator and connection tube have no structure that would block entry of the contaminants into the connection tube. This limitation is a structural limitation that clearly modifies the structure of each of the claims and is not functional.

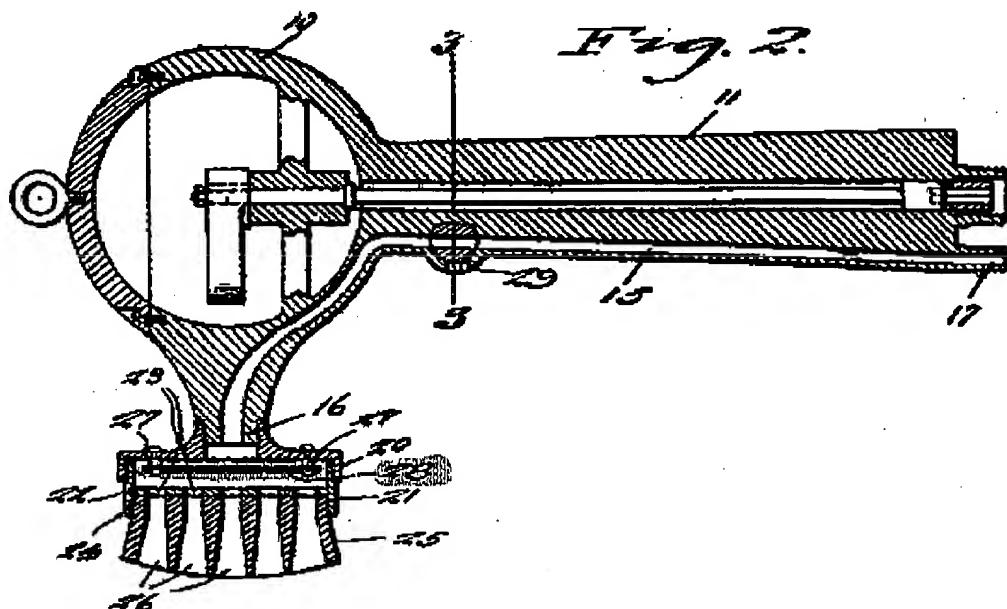
On the contrary, the prior art patent to Holt specifically states:

By using the vibrator in the ordinary manner, dead skin, blackheads and other objectionable material will be loosened, while the suction provided will remove the loosened material and draw the same inward through the openings 26 and 23. *The plate 28 will prevent this material from being drawn into the air passage, the said material being collected within the cup-shaped holder 20.* The applicator 25 and the shell 21 may thereafter be removed and the device thoroughly cleaned [to remove the material because it was not transferred through the tube].

See Holt at page 2, line 57 to line 69. (emphasis added)

Therefore, Holt *specifically and explicitly* states that material from the massage process (dead skin, etc.) **IS NOT** transferred through its hose or tube 18 *because it is blocked by the plate*

28. See Fig. 2 of Holt, reproduced below with highlighting of the plate 28.



III. CONCLUSION

It is, therefore, respectfully submitted that claims 1-7, 9 and 15-21 are not anticipated by Holt because Holt does not disclose or suggest an element of each claim, namely the applicator and connection tube having no structure that would block entry of the contaminants into the connection tube.

Respectfully submitted,



Nelson D. Nolte, Reg. No. 42,938
Polster, Lieder, Woodruff & Lucchesi, L.C.
12412 Powerscourt Dr. Ste 200
St. Louis, Missouri 63131
(314) 238-2400